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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,218	04/03/2001	Nabil Nasr	1819/100171	9814

7590
Gunnar G. Leinberg, Esq.
NIXON PEABODY LLP
P.O. BOX 31051
Clinton Square
Rochester, NY 14603

03/25/2008

EXAMINER

GUILL, RUSSELL L

ART UNIT	PAPER NUMBER
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2123

MAIL DATE	DELIVERY MODE
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03/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	09/825,218		NASR ET AL.	
	Examiner		Art Unit	
	RUSSELL GUILL		2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-23, 25-42, 44-67, 69-80, 82-93, 95-97, 107-109 and 116-124 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6-10, 13-23, 25, 26, 31-42, 44, 45, 51-67, 69-80, 83-93, 96, 97, 107-109 and 116-121 is/are allowed.
- 6) ☒ Claim(s) 11, 12, 27-30, 46-50, 95 and 122-124 is/are rejected.
- 7) ☒ Claim(s) 82 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This Office action is in response to an Amendment filed January 25, 2008.
2. Claims 122 - 124 were added. Claims 98 - 106 were previously canceled. Claims 5, 24, 43, 68, 81, 94 and 110 - 115 were canceled. Claims 1 - 4, 6 - 23, 25 - 42, 44 - 67, 69 - 80, 82 - 93, 95 - 97, 107 - 109 and 116 - 124 are pending. Claims 1 - 4, 6 - 23, 25 - 42, 44 - 67, 69 - 80, 82 - 93, 95 - 97, 107 - 109 and 116 - 124 have been examined. Claims 11 - 12, 27 - 30, 46 - 50, 95, 122, 123 and 124 are rejected. Claims 1 - 4, 6 - 10, 13 - 23, 25 - 26, 31 - 42, 44 - 45, 51 - 67, 69 - 80, 83 - 93, 96 - 97, 107 - 109 and 116 - 121 are allowable over the prior art of record. Claim 82 is objected to for minor informalities.
3. As recited previously, the Examiner would like to thank the Applicant for the very well presented response, which was useful in the examination process. The Examiner appreciates the effort to perform a thorough analysis of the Office Action, and make appropriate arguments and amendments.

Response to Remarks

4. Regarding new claims 122 - 124:
 - 4.1. Applicant's arguments have been fully considered, but are not persuasive, as follows.
 - 4.2. The Applicant argues:
 - 4.3. With respect to new dependent claims 122-124, Applicants respectfully traverse this rejection. First, the Office has taken one word out of context from the passage cited by the Office on page 17, lines 10-16 in the above-identified patent application which is set forth below:
 - 4.3.1. In this particular embodiment, a failure mode, effects, and criticality analysis (FMECA) is used, although other types of analysis for risk priority can be used depending upon the particular application. FMECA is a systematic approach used to determine the causes, results, and severity of the failure of a system, subsystem and/or component. FMECA allows for a subjective, yet qualitative,

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evaluation of the frequency and severity of possible failures within in a system, subsystem, and/or component.

4.4. As illustrated this passage initially states, "FMECA is a systematic approach . . .". Webster's Collegiate Dictionary, Tenth Edition, defines systematic, "a methodical procedure or plan marked by thoroughness and regularity" which is clearly not a subjective process, but one that produces a concrete result. Additionally, subjective is defined as, "relating to the real nature of something" and qualitative is defined, "relating to or expressable in terms of quantity or amount." Accordingly, the subjective, yet qualitative evaluation is merely stating that something real is being quantified, again not that the process itself is subjective. Thus, when this passage is read in its entirety it is describing a systematic approach, i.e. a methodical, regular, and objective process, that provides a quantified evaluation of something real. Nowhere is there any suggestion of any sort of subjective process that would not produce a repeatable result.

4.4.1. The Examiner respectfully replies:

4.4.2. While the Examiner appreciates the Applicant's argument, the Examiner respectfully disagrees, as follows.

4.4.3. First, the Applicant recites above, "Webster's Collegiate Dictionary, Tenth Edition, defines systematic, "a methodical procedure or plan marked by thoroughness and regularity" which is clearly not a subjective process". The conclusion does not appear to follow from the premise. A methodical procedure may be subjective.

4.4.4. Second, the Applicant recites above, "when this passage is read in its entirety it is describing a systematic approach, i.e. a methodical, regular, and objective process". The Applicant appears to conclude that the passage describes an objective process, but the conclusion does not appear to follow from the premises, and none of the definitions appear to recite an objective process.

4.4.5. Webster's Third New International Dictionary (1966) defines one meaning of subjective as, "peculiar to a particular individual modified by individual bias and limitations". When a claim has an interpretation that allows a non-statutory interpretation, the claim must be amended to include only statutory interpretations.

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4.4.6. Finally, as recited in the quotation of the specification above, FMECA is a systematic process, but it is a subjective evaluation.

4.5. The Applicant argues:

4.6. Second, the Office is ignoring the rest of the disclosure in the above-identified patent application which provides further support that the example of the failure mode, effects, and criticality analysis disclosed in the above-identified patent application would produce substantially the same result again. The Office's attention is respectfully directed to page 17, line 3 to page 21, line 17, along with the associated figures which describe in greater detail one example of the risk priority analysis which provides a useful, tangible, and concrete result. In particular, the Office's attention is to page 20, lines 28-29 in the above-identified patent application, which states, "In this particular embodiment, the RPN is computed directly as the product of the severity and occurrence ratings." Additionally, the Office's attention is respectfully directed to page 20, lines 22-27 in the above-identified patent application which states, "The severity and occurrence ratings are selected based on the criteria stored in tables in remanufacturing processing system 12." Accordingly, the example of the failure mode, effects, and criticality analysis which is disclosed is obtaining a risk priority analysis by taking product of two ratings that have been selected based on criteria stored in tables. This is clearly a methodical and repeatable process which would produce substantially the same result again.

4.6.1. The Examiner respectfully replies:

4.6.2. Both the severity and occurrence estimates appear to be subjective evaluations, especially the number of occurrences estimate.

4.7. The Applicant argues:

4.8. Third, even *assuming arguendo* the Office's position, Applicants are neither limited to nor specifically claiming a failure mode, effects, and criticality analysis. Instead, the Office's attention is respectfully

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directed to page 17, lines 10-12, in the above-identified patent application which recites, "In this particular embodiment, a failure mode, effects, and criticality analysis (FMECA) is used, although other types of analysis for risk priority can be used depending upon the particular application." (Emphasis added). As a result, Applicants are not limited to nor are Applicants claiming in new dependent claim 122-124 a failure mode, effects, and criticality analysis. Instead, Applicants are claiming risk priority processing system or determining a risk priority. By way of example, in the outstanding Office Action the Office has cited to the Onodera reference in support of its rejections as one example of such a risk priority analysis which satisfies the requirements of 35 USC Section 101 and other risk priority analyses are known. Accordingly, in view of all of the foregoing remarks, the Office is respectfully requested to reconsider and withdraw this rejection.

4.8.1. The Examiner respectfully replies:

4.8.2. Determination of a risk priority appears to be a subjective process. The specification recites, "Referring back to FIG. 2, in step 48 an analysis is performed to determine a risk priority or criticality of components, subsystems and/or systems in the apparatus. An analysis of risk priority involves analyzing factors, such as possible failures of a component, subsystem and/or system, the effect of a failure on the component, a subsystem, and/or a system, and the frequency and severity of possible failures within existing systems, subsystems and/or components, all of which can affect the assessment of the viability of remanufacturing options." The recited factors used in the analysis appear to be subjectively determined estimates which could vary enormously depending upon the person performing the analysis.

4.8.3. Accordingly, the rejections are maintained.

Claim Objections

5. Claim 82 is objected to for the following minor informality: the claim appears to be missing a full stop period at the end of the claim.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 27, 28, 46, 47, 48 and 95 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7.1. Regarding claim 27 and dependent claim 28, the claim 27 recites, "The system as set forth in claim 24". Claim 24 has been canceled. Thus the meaning of the claim cannot be reliably determined.

7.2. Regarding claim 46 and dependent claims 47 - 48, the claim recites, "The medium as set forth in claim 43". Claim 43 has been canceled. Thus the meaning of the claim cannot be reliably determined.

7.3. Regarding claim 95, the claim recites, "The medium as set forth in claim 94". Claim 94 has been canceled. Thus the meaning of the claim cannot be reliably determined.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. **Claims 122, 11 - 12** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims appear to contain abstract ideas such as determining a risk priority, and therefore, the claims must be directed to a practical application having a useful, tangible and concrete result. The claims appear to lack a concrete result to support a practical application. The claims recite, "determining a risk priority of each of the items based on the obtained data." The specification appears to teach that the risk priority is determined with a failure mode, effects, and criticality analysis (FMECA), using a subjective process (*specification, page 17, lines 10 - 16*). A subjective process is not concrete, and so the claims appear to lack a concrete result. Because of the subjective nature of the FMECA, the determined viable remanufacturing items could be adjusted at will simply by altering the subjective outcome of the FMECA.

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10. **Claims 123, 29 - 30** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims appear to contain abstract ideas such as determining a risk priority, and therefore, the claims must be directed to a practical application having a useful, tangible and concrete result. The claims appear to lack a concrete result to support a practical application. The claims recite, "a risk priority processing system in the at least one computing device that determines a risk priority of each of the items based on the obtained data." The specification appears to teach that the risk priority is determined with a failure mode, effects, and criticality analysis (FMECA), using a subjective process (*specification, page 17, lines 10 - 16*). A subjective process is not concrete, and so the claims appear to lack a concrete result. Because of the subjective nature of the FMECA, the determined viable remanufacturing items could be adjusted at will simply by altering the subjective outcome of the FMECA.
11. **Claims 124, 49 - 50** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims appear to contain abstract ideas such as determining a risk priority, and therefore, the claims must be directed to a practical application having a useful, tangible and concrete result. The claims appear to lack a concrete result to support a practical application. The claims recite, "determining a risk priority of each of the items based on the obtained data." The specification appears to teach that the risk priority is determined with a failure mode, effects, and criticality analysis (FMECA), using a subjective process (*specification, page 17, lines 10 - 16*). A subjective process is not concrete, and so the claims appear to lack a concrete result. Because of the subjective nature of the FMECA, the determined viable remanufacturing items could be adjusted at will simply by altering the subjective outcome of the FMECA.

Allowable Subject Matter

12. The following is a statement of reasons for the indication of allowable subject matter:
13. While Watson (U.S. Patent Number 6,581,045) teaches determining an overall condition of items in an apparatus regardless of the condition of each of the items based on obtained data, and determining whether each of the items satisfies one or more operation specifications based on the obtained data, and identifying one or more systems in the apparatus, and identifying components in each of the systems, and assessing a plurality of remanufacturing options for the items based on the determined overall condition of the items regardless of a condition of each of the items and the determined

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satisfaction of the operation specifications to identify which of the plurality of remanufacturing options are viable, and displaying one or more of the identified viable remanufacturing options; and MiStd1629A ("Military standard procedures for performing a failure mode, effects and criticality analysis") teaches determining a functional hierarchy and interrelation of the systems and components, none of these references either alone or in combination with the prior art of record teaches a method for assessing remanufacturability of one or more items in an apparatus, specifically including:

13.1. Regarding claim 1, "applying a filter to the determined functional hierarchy limiting the functional hierarchy to a specified level of the functional hierarchy", and ~~"assessing a plurality of remanufacturing options for each of the items based on the determined overall condition of the items regardless of a condition of each of the items, the determined satisfaction of the operation specifications,~~ the determined functional hierarchy and interrelation of the systems and components, and the specified level of the functional hierarchy", in combination with the remaining features and elements of the claimed invention;

13.2. Regarding claim 21, "a filtering system that applies a filter to the determined functional hierarchy limiting the functional hierarchy to a specified level of the functional hierarchy", and ~~"a remanufacturing assessment processing system in the at least one computing device that assesses a plurality of remanufacturing options for each of the items based on the determined overall condition of the items regardless of a condition of each of the items, the determined satisfaction of the operation specifications,~~ the functional hierarchy and interrelation of the systems and components, and the specified level of the functional hierarchy", in combination with the remaining features and elements of the claimed invention;

13.3. Regarding claim 39, "applying a filter to the determined functional hierarchy limiting the functional hierarchy to a specified level of the functional hierarchy", and ~~"assessing a plurality of remanufacturing options for each of the items based on the determined overall condition of the items regardless of a condition of each of the items, the determined satisfaction of the operation specifications,~~ the determined functional hierarchy and interrelation of the systems and components, and the specified level of the functional hierarchy", in combination with the remaining features and elements of the claimed invention;

13.4. Regarding claim 59, "applying a filter to the determined functional hierarchy limiting the functional hierarchy to a specified level of the functional hierarchy", and ~~"assessing a plurality of remanufacturing options for each of the items based on the one or more assessments,~~ the determined functional hierarchy and interrelation of the systems and components, and the specified level of the

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functional hierarchy", in combination with the remaining features and elements of the claimed invention;

13.5. Regarding claim 72, "a filtering system that applies a filter to the determined functional hierarchy limiting the functional hierarchy to a specified level of the functional hierarchy", and "~~a remanufacturing assessment processing system in the at least one computing device that assesses a plurality of remanufacturing options for each of the items regardless of the condition of each of the items based on the obtained one or more assessments,~~ the functional hierarchy and interrelation of the systems and components, and the specified level of the functional hierarchy", in combination with the remaining features and elements of the claimed invention;

13.6. Regarding claim 85, "applying a filter to the determined functional hierarchy limiting the functional hierarchy to a specified level of the functional hierarchy", and "~~assessing a plurality of remanufacturing options for each of the items based on the one or more assessments,~~ the determined functional hierarchy and interrelation of the systems and components, and the specified level of the functional hierarchy", in combination with the remaining features and elements of the claimed invention.

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Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russ Guill whose telephone number is 571-272-7955. The examiner can normally be reached on Monday – Friday 10:00 AM – 6:30 PM.
17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Any inquiry of a general nature or relating to the status of this application should be directed to the TC2100 Group Receptionist: 571-272-2100.
18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Russ Guill
Examiner
Art Unit 2123

RG

/Paul L Rodriguez/
Supervisory Patent Examiner,
Art Unit 2123

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